

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Case No. 19-CR-67
) Green Bay, Wisconsin
 vs.)
) May 22, 2020
 XENGXAI YANG,) 10:13 a.m.
)
 Defendant.)
)

**TRANSCRIPT OF TELEPHONE STATUS CONFERENCE
BEFORE THE HONORABLE WILLIAM C. GRIESBACH
UNITED STATES SENIOR DISTRICT JUDGE**

APPEARANCES:

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UNITED STATES OF AMERICA:

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1 TRANSCRIPT OF PROCEEDINGS

2 Transcribed From Audio Recording

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4 THE COURT: Case No. 19-CR-67. This matter is on the
5 calendar today for a counsel only status conference more or
6 less. Can we have the appearances beginning with the
7 Government.

8 MR. MAIER: Morning, Your Honor. Andrew Maier appears
9 for the United States.

10 THE COURT: Good morning, Mr. Maier.

11 MR. PHILLIP: Good morning, Your Honor. Tom Phillip
12 appears on behalf of Mr. Yang.

13 THE COURT: Good morning, Mr. Phillip.

14 MR. PHILLIP: Your Honor, the history of the case goes
15 back to Mr. Yang initially was represented by retained counsel.
16 That attorney and Mr. Yang entered a not guilty by reason of
17 mental disease or defect plea, and the Court ordered an
18 examination. That examination did not support the plea, and so
19 Mr. Yang entered a guilty plea by written plea agreement.

20 After the entry of the plea, Mr. Yang then filed a pro
21 se motion for new counsel and to withdraw his plea. The Court
22 granted the motion for new counsel and held open the motion to
23 withdraw the plea, so then I was appointed and I picked up the
24 case in the middle of February of this year.

25 I filed two motions -- Well, one was a letter asking

1 to clarify the status of the case, and I filed a motion to
2 adjourn the sentencing and schedule a status conference. The
3 Court granted the motion to postpone the sentencing and put this
4 hearing on today instead. And what I've been doing during the
5 time since I've been appointed is try to see if there are any
6 grounds to withdraw the plea or to try and reinstate the not
7 guilty by reason of mental disease or defect plea.

8 Towards both of those ends, I retained a psychologist
9 to see Mr. Yang, and I had hoped to be able to have a report and
10 tell the Court which way I would go by today. Unfortunately
11 because of the Coronavirus Pandemic, my progress has been much
12 slower than anticipated.

13 It became because of the jail restrictions because of
14 the Coronavirus, it became difficult, first, to get the doctor
15 to see Mr. Yang and, second, for him to be able to do his work.
16 The doctor when he does a neuropsychiatric exam, that usually
17 takes between six or eight hours of in-person interviewing and
18 testing, and the testing includes both paper tests and tests
19 where the subject manipulates objects, sorts things, tests like
20 that.

21 So again that was much more difficult than usual to
22 accomplish. The doctor was having to do this in 60 or 90-minute
23 chunks rather than in one or two long interviews so it has just
24 been inefficient. I am not by the way complaining about the
25 jail. I think they have been responsible in their duties. I am

1 not complaining about the doctor. He's been trying to do his
2 best under the circumstances but, in essence, everything was
3 taking longer than expected.

4 The doctor now is finished with his interviews and
5 testing and is tabulating his results and writing a report. I
6 expect to have that in the near future. I don't have a date
7 certain that I can tell the Court that I'll have the report by.
8 The doctor's report and conclusions will then obviously help me
9 decide what to do next.

10 And so what I would propose is that the Court schedule
11 this case again for a status conference in, approximately, 30 or
12 45 days. That should give me the time for the doctor to finish
13 his report and then for me to confer with Mr. Yang and decide
14 what if anything we should do next.

15 THE COURT: Mr. Maier, do you have any objection to
16 that proposal?

17 MR. MAIER: I don't, Your Honor. Thank you.

18 THE COURT: It strikes me as reasonable. And
19 unfortunately given the current circumstances under which we're
20 all trying to operate, the delay is understandable. Let's look
21 at our calendars, and I'll try and put this on for 30 to 45 days
22 away. Let's see where -- We're really looking toward late June
23 it sounds like.

24 MR. PHILLIP: Yes.

25 THE COURT: How about -- are you -- Are you in front

1 of me at all on June 29th or 30th?

2 MR. PHILLIP: No, but I am available all of those
3 days.

4 THE COURT: How about the -- How about on June 29th
5 at 2:30 in the afternoon? This will be --

6 MR. MAIER: Status conference?

7 THE COURT: Unless Mr. Phillip, you decide not to take
8 any action and you wish to schedule a sentencing, we'll make
9 this a status conference. If in the meantime you conclude
10 you're simply going to go to sentencing, contact the clerk, and
11 we'll reschedule at that point.

12 MR. PHILLIP: I'll do my best to notify the Court and
13 parties in advance if I'm able of which way we might go. But
14 yes, the June 29th for a status I think would be a good idea.
15 Thank you.

16 THE COURT: Anything further we can do today?

17 MR. MAIER: I don't believe so.

18 MR. PHILLIP: No. Thank you.

19 THE COURT: Very well. Thank you all. Good-by
20 everyone.

21 (Whereupon proceeding was concluded.)

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C E R T I F I C A T E

I, SUSAN ARMBRUSTER, RMR, Official Court Reporter and Transcriptionist for the United States District Court for the Eastern District of Wisconsin, do hereby certify that the foregoing pages are a true and accurate transcription of the audio file provided in the aforementioned matter to the best of my skill and ability.

Signed and Certified November 19, 2021.

/s/Susan Armbruster

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